IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dr.(Mrs.)Kiran Singh v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.1738/2000
under Article 226 of the Constitution of India.

Date of Order : 24th February, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Manoj Bhandari, for the petitioner.
Mr. D.C.Sharma]
Mr. V.K.Mathur], for the respondents.
Mrs.Raghuraj Kanwar, Addl.Govt.Advocate.

BY THE COURT :

By the instant writ petition a challenge is given to the order dated 1.4.2000 passed by Registrar, Jai Narain Vyas University, Jodhpur whereby services of the petitioner were terminated w.e.f. 1.4.1999.

The facts necessary for adjudication of the present writ petition are that by advertisement No.49/95-96 Women's Studies Cell, Department of Sociology, Jai Narain Vyas University, Jodhpur invited applications from eligible candidates for the purpose of appointment to the post of “Teacher” in the grade of lecturers.

The petitioner being eligible submitted an application and she was interviewed by

competent selection committee on 12.8.1995 in the chambers of Dean, Faculty of Arts, Jai Narain Vyas University, Jodhpur for the purpose of appointment as a teacher.

The Deputy Registrar (Development), Jai Narain Vyas University, Jodhpur by a communication dated 4.9.1995 communicated to the petitioner that under the recommendations of selection committee approval to her appointment has been given as teacher in Women's Studies Cell on Rs.2200/- per month with other allowances as per University Rules. The petitioner in pursuance of communication dated 4.9.1995 joined the duties on 9.9.1995. The petitioner was not paid salary after 1.4.1999 but her services were utilised in the Women's Studies Cell as teacher uptil issuance of the order dated 1.4.2000 whereby services of the petitioner were terminated with retrospective effect i.e. w.e.f. 1.4.1999 on the count that the University Grants Commission stopped funding the cell w.e.f. 1.4.1999.

The petitioner is seeking redressal of her grievance by filing the present writ petition before this Court with a direction for respondents to make payment of salary to her for the period commencing from 1.4.1999 to 31.3.2000 with interest. The petitioner has also sought a direction to reinstate her in services with all consequential benefits.

A rule of nisi was issued to respondent University as well as to the State of Rajasthan, University Grants Commission, New Delhi and to Director, Women's Studies Cell, Jai Narain Vyas University, Jodhpur by this Court on 12.9.2000, in response to which separate written statement has been filed on behalf of all the respondents.

Respondent University in its reply has taken the stand that Women's Studies Cell was established being a project under University Grants Commission. The cell was created in the year 1987 and the commission was providing necessary finance to it. The petitioner was in employment of the cell and was not an employee of the University. It is averred in reply filed on behalf of the University that the University was paying salary to the petitioner after getting funds from University Grants Commission but from April, 1998 to March, 1999 the University Grants Commission paid the sum of Rs.81,680/- to the University against the total salary of Rs.1,02,100/- which was paid to the petitioner by the University. It is further stated that no fund was given by the commission to the University after 1.4.1999 with regard to payment of salary to the petitioner, therefore, the University left with no option but to pass the order impugned.

A reply to the writ petition has also been filed on behalf of the University Grants Commission stating therein that the Women's

Studies Cell was established at Jai Narain Vyas University, Jodhpur under 7th plan and was allowed to continue in 8th and 9th plan. The University Grants Commission informed the University that the payment of salary to the staff working in Women's Studies Cell in 9th plan had to be taken over by respective State Governments. A decision was thereafter taken on 14.1.2000 to the effect that the maintenance of the post of lecturer was to be taken by the Colleges or the Universities or the State Governments as specified by the commission in its earlier communications. This decision of the commission was communicated to Jai Narain Vyas University, Jodhpur on 18.2.2000. In view of it, according to the commission the liability to make payment of salary to the petitioner was of the Government of Rajasthan or of the Jai Narain Vyas University, Jodhpur but not of the commission.

A reply to the writ petition has also been filed on behalf of State of Rajasthan. The State Government though in unambiguous terms denied its liability for making payment of salary to the petitioner, however, accepted that the University moved the State Government to provide funds for running Women's Studies Cell but the State Government being not in position to do so did not sanction for the same.

A rejoinder to the reply submitted by the University has been filed by the petitioner reiterating the stand taken by her in the writ

petition. In rejoinder details have also been given by the petitioner with regard to finance provided by the University Grants Commission time to time to the University. The petitioner has also emphasized that irrespective of the fact about receiving the funds by the University she was entitled for salary against the work done by her. At the time of hearing it was also stated at Bar by the counsel for the University that the Women's Studies Cell is still in operation under sociology department of the University.

I have heard counsel for the parties.

It is admitted position of the parties that the petitioner was employed as teacher in Women's Studies Cell as a consequence of the recommendations made by the competent selection committee by order dated 4.9.1995 and she joined duties on 9.9.1995. It is also not in dispute that she was in employment of the Women's Studies Cell uptil 1.4.2000 and her services were discontinued under an order passed by the Registrar, Jai Narain Vyas University, Jodhpur on the count that the University Grants Commission stopped funding to the Women's Studies Cell. It is also a fact admitted that no payment of salary was made to the petitioner for the period from 1.4.1999 to 31.3.2000.

It is really surprising that mighty institutions like University Grants Commission and

Jai Narain Vyas University, Jodhpur are shirking from their liability to make payment of salary to a person service of whom was utilised by them. The question with regard to finance to Women's Studies Cell may be an issue of dispute between the University Grants Commission, Jai Narain Vyas University, Jodhpur and the Government of Rajasthan but on that count payment of salary cannot be denied to the petitioner. The non payment of salary to the petitioner after utilising her services shall be nothing but violation of Article 23 of the Constitution of India which prohibits “begar”. The non payment of salary to the petitioner after utilising her services is nothing but “begar”.

As the appointment was given to the petitioner by an authority of the University and the order impugned was passed by Registrar of the University, this Court without entering into the question with regard to liability for providing funds to Women's Studies Cell, Department of Sociology, Jai Narain Vyas University, Jodhpur consider it appropriate to direct respondent University to make payment of salary to the petitioner for the period commencing from 1.4.1999 to 31.3.2000 forthwith with interest @ 10% per annum. It is open for the University to claim the money paid to the petitioner from the commission or from the State Government, as the case may be, if ultimately it is found that the University

was entitled to get fund from any of the body referred above.

As stated at Bar that the Women's Studies Cell is still functioning, I also consider it appropriate to direct the respondent No.5 i.e. Director, Women's Studies Cell, Department of Sociology, Jai Narain Vyas University, Jodhpur to consider candidature of the petitioner to re-employ her as teacher, if the post still exists under the scheme in which the cell was constituted.

With these directions this writ petition is allowed with no order as to costs.

(GOVIND MATHUR),J.

kkm/ps.